

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

MOHAMMED PROCTOR,

Pro Se Plaintiff,

SCHEDULING ORDER

-against-

CV 10-5981 (SJF) (AKT)

VINCENT CAGNO, SERGEANT KIERNAN,
ERIC SICKLES, ANDREW HEFFERMAN,
JOHN DOES #1-13,

Defendants.

-----X

A. KATHLEEN TOMLINSON, Magistrate Judge:

The above-captioned case has been referred to United States Magistrate Judge A. Kathleen Tomlinson to supervise pretrial discovery. Because plaintiff is incarcerated and is not represented by an attorney, we will not be able to schedule discovery or the other matters enumerated in Rule 16 of the Federal Rules of Civil Procedure at the in-person pretrial conference contemplated by that rule. Accordingly, it is hereby ORDERED that discovery in this case be conducted as follows:

(1) Plaintiff shall prepare a written narrative statement of the facts plaintiff currently anticipates presenting at trial through the testimony of witnesses or documentary evidence. Plaintiff shall send a copy of this statement to counsel for defendants and file a copy with the Court (in the manner required by paragraph (5), below) by **April 12, 2011**.

Since this statement is to be prepared prior to the taking of any discovery in the case, it is understood that plaintiff's theory of the case may evolve as discovery proceeds. The statement shall include a list of all exhibits plaintiff anticipates introducing into evidence at trial and a list of the names and addresses of all witnesses plaintiff presently intends to call. Plaintiff shall also include a written summary of the anticipated testimony of each witness.

(2) By **May 10, 2011**, each defendant shall serve and file (in the manner required by paragraph (5), below) a written narrative of the facts which that defendant currently anticipates presenting at trial through the testimony of witnesses or documentary evidence. The statement shall include a list of all exhibits defendant anticipates offering, the names and addresses of all witnesses the defendant presently intends to call, and a summary of each anticipated witness's testimony. Again, since this statement will be prepared without benefit of discovery, it is understood that defendant's presentation at trial will not be limited to matters set forth in this statement and that the defense theory may evolve as discovery proceeds.

(3) A Telephone Conference between Plaintiff, Counsel for Defendants, and the Court will be held on May 27, 2011 at 10:30 a.m., subject to the regulations of the facility in which Plaintiff is incarcerated. Counsel for Defendants is directed to set up the Telephone Conference and to initiate the call to **(631)712-5760**, using an outside operator. If this date and/or time is an issue for the facility, Counsel for Defendants should contact Chambers to set up another time for the Conference

(4) Following the Telephone Conference, the Court will issue an order containing the schedule according to which discovery shall proceed. Thereafter, the parties will serve interrogatories and/or document demands pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure, as set forth in that Scheduling Order.

(5) Every pleading or other document submitted for consideration by the Court shall be filed with the Clerk of the Court by mailing that document to: Clerk of the Court, United States District Court, Eastern District of New York, 100 Federal Plaza, P.O. Box 9014, Central Islip, New York, 11722-9014. Any motions pertaining to a discovery dispute should also be mailed to the Clerk with a courtesy copy mailed directly to Chambers at United States District Court, Eastern District of New York, P.O. Box 9014, Central Islip, New York, 11722-9014.

Further, every document or correspondence filed with the Court shall include on the original document a certificate stating that a true and correct copy of the pleading or document was mailed to all other parties in the action. The certificate of service must also recite the address to which the pleading or document was mailed and the date on which it was mailed. Any pleading or other document received by a District Judge or Magistrate Judge which has not been filed with the Clerk or which fails to include a proper certificate of service may be disregarded by the Court.

Counsel for Defendant is directed to serve this Order on Plaintiff *Pro Se* forthwith and to file proof of service on ECF.

SO ORDERED:

Dated: Central Islip, New York
March 1, 2011

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
United States Magistrate Judge